

EXHIBIT “C-1”

1 B. DORLAND

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2 (Witness excused.)

3 THE COURT: Yes, sir.

4 MR. FITZPATRICK: Your Honor, my final
5 witness is Dr. Erik Mitchell.

6 THE COURT: Can I see you two at the bench,
7 please.

8 (Counsel approached the bench. An off-the-
9 record discussion ensued.)

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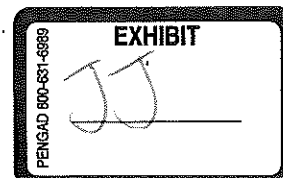
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17 E R I K K. M I T C H E L L , called as a
18 witness on behalf of the People of the State of New York,
19 having been duly sworn, was examined and testified, under
20 oath, as follows:

21 DIRECT EXAMINATION BY MR. FITZPATRICK:

22 Q Doctor, good afternoon. Would you be so kind as
23 to tell us your full name and what you do for a living?

24 A Erik Krag Mitchell. I'm medical examiner for
25 Onondaga County.



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2 Q How long have you been medical examiner for
3 this county?

4 A Since September of 1983.

5 Q And as medical examiner, would you tell the
6 ladies and gentlemen of the jury, what your duties are?

7 A I'm responsible for the investigation of
8 those deaths within this jurisdiction where there's a belief
9 that a nonnatural event may have played a role in that
10 death, or whether there's no physician available who can
11 sign the death certificate.

12 In accordance with this set of duties, I also
13 am engaged in other activities related to the investigation
14 of death-injury in both living and the dead.

15 Q Do you, as a routine, respond to unnatural
16 death scenes within this county?

17 A Yes.

18 Q And could you tell the jury, please, a little
19 bit about your professional and educational background?

20 A Yes, sir. I graduated from Cornell in 1972,
21 after which I came to Upstate Medical Center and got my
22 M.D. in 1976. This was followed by a four-year training
23 program in anatomic and clinical pathology. That would be,
24 respectively, the study of the body's tissues and of the
25 body's fluids and excretions, as they relate to an

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2 understanding of disease and injury.

3 This was followed by a subspecialty training
4 as an assistant to the chief medical examiner in Chapel
5 Hill, North Carolina, with the further training being in
6 forensic pathology or the legal aspects of pathology,
7 understanding more of the mechanism by which someone is
8 injured or dies.

9 Q Would you tell the jury, please, what an autopsy
10 is?

11 A Well, an autopsy, for me, optimally has three
12 phases: It will begin with an examination of the body of the
13 deceased at the site of discovery, or at the location of
14 injury and death; then it will proceed to an external
15 examination of the body under controlled circumstances in my
16 office; and, finally, to an internal examination of the body.

17 Now, during these various stages of investigation,
18 a variety of types of documentation may be produced, and a
19 variety of types of materials checked for further analysis.

20 Q Do you consider some of those materials in
21 making any medical determinations in connection with your
22 autopsy?

23 A I do.

24 Q And in the course of your professional career,
25 Dr. Mitchell, approximately how many autopsies have you

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2 performed or participated in in performing?

3 A I don't keep an account. It's over four
4 thousand. But I, I have not -- I've kind of run out of
5 fingers, so I don't know the number.

6 Q Now, sir, did you have occasion to respond to
7 248 Hickok Avenue sometime during the afternoon of March 30th,
8 1987?

9 A I did.

10 Q Do you remember what time it was that you got
11 there, sir?

12 A I was there in the midafternoon, sometime
13 between 3 and 4, to begin with. Before that, some members
14 of my staff had been there preliminarily.

15 Q Did you observe the body of the deceased white
16 female?

17 A I did.

18 Q And you subsequently learned her name to be
19 Valerie Hill?

20 A Yes.

21 Q What observations at the scene did you make of
22 the deceased, Valerie Hill?

23 A Well, the decedant was lying on the floor, a
24 carpeted floor. And had some sort of nightshirt, and then
25 over that nightshirt, a bathrobe. And then around her neck

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2 had a cord that, that was of the same type of material of
3 the bathrobe. It appeared to be the sash from the bathrobe.
4 The body was face down. It was in rigor, which means that
5 the musculature had stiffened and the -- it had begun to
6 turn purple on the down side, which is a process we call
7 livor or livor, depending on where you're trained.

8 There was some smearing of fecal material on
9 around the anus, and then around the lower extremities.

10 Q Could you tell the jury what rigor, or rigor
11 mortis is?

12 A The rigor, rigor mortis is the stiffening of
13 the muscles that occurs after you die. Now, it has a very,
14 very variable onset. And it has a somewhat variable pattern.
15 What happens is that the chemicals that normally allow you
16 to contract and utilize your muscles will, after you die,
17 be released within the cells, and the cells will use up
18 those chemicals. And as they do, the muscles are very
19 stiff.

20 Rigor usually starts in the jaw and then it may
21 start in the lower extremities, or it may start in the
22 upper extremities. Eventually the whole body will become
23 stiff. After a while, the chemicals that are responsible
24 for this process are used up. And when they are used up,
25 the body, once again, will become soft.

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2 So there is a process of rigor where you stiffen,
3 you go into rigor, you're in rigor for a while, and then you
4 loosen. The factors that affect rigor would be primarily
5 temperature, but also factors of physical activity and
6 basic body condition.

7 There are a number of factors, I'm sure, also,
8 that we do not understand and --

9 Q You also used the expression "livor." Would you
10 tell the jury what livor, livor mortis is?

11 A Livor mortis, or livor mortis, depending on how
12 you want to pronounce it, is the settling of blood that
13 occurs after you die. If you consider your body rather like
14 a sponge during life, fluid is being moved through that
15 sponge by the energy of the heart.

16 Now, once you die, you are no longer pumping
17 that fluid, and some will go to the side that is down. If
18 you are lying face down, it will tend to go towards your
19 face. If you're laying face up, the blood will tend to go
20 to your back. If you're standing up, it would go towards
21 your feet.

22 And so we look for livor and we look for how
23 livor sets in to give us an indication of body position, or
24 whether the body has been moved. And we also look at it to
25 give us some indication of how long a body may have been in a

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2 given location.

3 Livor originally will move around if you move the
4 body, but after a while, the blood starts to seep out of
5 the blood vessels into the tissues, and then you end up
6 with something called fixed livor. In other words, livor
7 that doesn't move when you move the body, because the blood
8 is no longer able to move. It's no longer in the blood
9 vessels.

10 Q Was livor fixed upon your observing Miss Hill's
11 body?

12 A There was fixed and unfixed livor.

13 Q Was the livor -- was the fixed livor
14 consistent with the position that you found her in in the
15 living room?

16 A Yes, sir.

17 Q Now, was her body removed to the medical
18 examiner's office?

19 A Yes, sir.

20 Q And that is located where?

21 A That's 330 West Onondaga Street.

22 Q Did you supervise the removal of the body?

23 A Yes, sir.

24 Q And upon returning to your offices at West
25 Onondaga Street, did you conduct an external examination

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2 of Miss Hill's body?

3 A I did.

4 Q And would you tell us what, if anything, you
5 observed?

6 A The -- we began -- had the processes that have
7 been described. She was coming out of rigor; in other
8 words, she had gone into rigor, and it was possible while
9 we were still there, it was fairly easy to break the
10 process.

11 When somebody is in full rigor, right in the
12 middle of the process, the muscles tend to be very, very
13 stiff, and it's difficult to manipulate the extremities
14 because of their rigidity. With her, it was fairly easy to
15 break the rigor. She had a very dense purple discoloration
16 of part of the face, with small petechiae. These are small
17 hemorrhages into the skin surfaces above the level of the
18 sash that was around the neck.

19 Below the level of that sash there were none
20 of these petechiae. Now, the reason that I break the
21 petechiae pattern down into above versus below, is that if
22 you have a blood pressure and a lack of oxygen at an elevated
23 blood pressure, especially in the veins, then you will tend
24 to get small hemorrhages in the various tissue surfaces.

25 So the petechiae are evidence of the pressure

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2 applied around the neck from the sash during life.

3 Q Could you tell the jury what a defensive wound
4 is?

5 A A defensive wound is a wound that is incurred
6 when you try to put between yourself and some potential
7 threat of harm, one of your extremities. In other words,
8 putting your hand or your arm or your leg up to ward off a
9 blow or ward off other -- some other type of attack, and
10 the types of wounds that we get under those circumstances
11 we label as defensive wounds.

12 Q Did you observe any defensive wounds to the body
13 of Valerie Hill?

14 A No, sir.

15 Q Did you next conduct an internal examination of
16 Miss Hill's body?

17 A I did.

18 Q And what, if anything, did you observe in the
19 way of trauma?

20 A There was a bruise that could not be well seen
21 on the outside, because of the discoloration caused by
22 livor, and the settling of blood. But to the right above
23 the right eyebrow, there was a bruise that was red and
24 swollen, and was something that had happened prior to the
25 time that she lost blood pressure.

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2 Further down, if you go and look inside the
3 mouth, there were prominent petechiae, prominent
4 hemorrhages into the mucosa; that is the lining of the
5 mouth.

6 Then you get down into the neck, and in the
7 neck there were hemorrhages of what we call the strap
8 muscles. The strap muscles are a series of muscles that
9 connect the front of the neck to between the area of the
10 collarbone and the area of the tongue. And there were
11 many hemorrhages into these muscles.

12 And also, there were two areas where you have
13 bony or firm tissue in the neck: one place called
14 the hyoid; it's a U-shaped bone. It's kind of like this
15 (Indicating). And that U-shaped bone is at the base of the
16 tongue. This particular bone when you're young, as was she,
17 actually has two joints in it. Later on in life these may
18 fuse and become a perfect bony U. She had hemorrhage
19 involving one of the joints, and then she had fracture of the
20 left side of the hyoid, in other words, the bone had been
21 broken.

22 When you go to Adam's apple, larynx, the larynx,
23 the voice box, there was, again, fracture of part of the
24 bone -- of the bones, the projections of the larynx. There
25 were a number of petechiae, these little hemorrhages we talk

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2 about in the epiglottis. The epiglottis is the flap of
3 tissue at the base of the tongue. It stands up something
4 like my hand (Demonstrating). If you look into somebody's
5 mouth, you can see that -- you can see it. And, again, if
6 you block the blood flow out of the head during life,
7 especially if there's a reduction in the amount of oxygen
8 to the tissues, you will tend to get little hemorrhages,
9 what we call petechiae, into the epiglottis.

10 Q Now, Doctor, I want to direct your attention to
11 the bruise that you discovered upon your internal
12 examination. First of all, can -- were you able to date
13 that bruise, in terms of when it occurred prior to her
14 death?

15 A Well, it was relatively fresh. I would expect
16 it to have happened within twenty-four hours.

17 Q And would you, using your own head as an
18 example, would you point to the jury as to where exactly
19 the bruise was located?

20 A This was located on the right side of the
21 head, right to the right of the right eyebrow (Indicating).

22 Q Could you make any determination as to whether
23 or not such a bruise would have resulted in the victim
24 being unconscious?

25 A It's not possible to say. It's possible that

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2 unconsciousness resulted from that blow. It's also possible
3 that there were -- unconsciousness did not result from that
4 blow. There was no direct bruising of the brain.

5 Q So your opinion is that it's impossible to say?

6 A That is correct.

7 Q And would you tell us, in strangulation deaths,
8 are you able to estimate the amount of time necessary that
9 the oxygen has to be cut off from the brain for death to
10 result?

11 A Well, there is a minimum time. If you allow
12 some oxygen to get to the brain, you extend that time. So
13 it can take quite a while for somebody to die in a
14 strangulation death. But the minimum time would involve a
15 couple of minutes to -- well, you can actually, if you
16 block the carotids, you can probably knock somebody out
17 within seven to ten seconds. But to have irreversible
18 brain death is going to be closer to something along the
19 lines of five minutes.

20 Q I want to show you some items here, sir,
21 People's Exhibit 55. Can you identify that, Dr. Mitchell?

22 A Yes, sir.

23 Q What is that?

24 A This is the bathrobe removed from the body of
25 Valerie Hill.

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2 Q And Exhibit 56, can you identify that?

3 A Yes, sir.

4 Q What is Exhibit 56?

5 A This is the sash that is -- that appears to
6 have the same type of cloth as the bathrobe that was
7 wrapped around the neck, and which I removed. At the time
8 I removed it, I cut it, but first I tied strings around the
9 sash to preserve the wrappings around the neck, and then I
10 cut between those two ties.

11 Q And why was it necessary to cut it?

12 A In order to get it off the neck.

13 Q I show you People's Exhibit 57, a photograph.
14 Can you identify that, Doctor?

15 A Yes, sir.

16 Q What is Exhibit 57?

17 A Exhibit 57 is a picture of the deceased, taken
18 to show the sash wrapped around the neck, and showing also
19 some of the clothing around the upper chest, and showing a
20 little bit of the right side of the head.

21 Q Do you know where the photo was taken?

22 A This photograph would have been taken -- well,
23 I can't say for sure, somebody else -- it may have been a
24 ruler of mine, but that is the ruler that is in there, is
25 one that we have at the morgue, or is compatible to one

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2 that we have in our morgue.

3 Q Does it show the shirt that she had on that you
4 referred to?

5 A Yes, sir.

6 Q And was that the only clothing that she had on,
7 the bathrobe and the shirt?

8 A Yes, sir.

9 Q And Exhibit 57, regardless of when it was
10 taken, does it fairly and accurately portray the victim
11 as she appeared at the time of your autopsy?

12 A Yes, sir.

13 MR. FITZPATRICK: I would offer 55, 56, and
14 57, your Honor.

15 THE COURT: Mr. Calle, any objection to
16 55, a plastic bag containing a blue bathrobe?

17 MR. CALLE: I'd like to see the photos,
18 if I could, Judge, please.

19 THE COURT: Well, 55 is a plastic bag
20 containing a bathrobe.

21 MR. CALLE: No, Judge. I hear you now.
22 No, no objection.

23 THE COURT: All right. That's received.

24 (People's Exhibit Number 55 was then
25 received into evidence.)

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2 THE COURT: How about a plastic bag
3 containing a sash or belt from that bathrobe?

4 MR. CALLE: No, sir, no objection.

5 THE COURT: All right. That's received.

6 (People's Exhibit Number 56 was then
7 received into evidence.)

8 THE COURT: Now we're at Photo 57, or
9 Exhibit 57, the photo depicting the victim
10 with this object.

11 MR. CALLE: Yes, sir. I respectfully
12 object, based upon the prior stated grounds.

13 THE COURT: I haven't seen it, so I'll
14 reserve on it for now and we'll have a discussion
15 at the end of the witness' testimony.

16 BY MR. FITZPATRICK:

17 Q Dr. Mitchell, in your opinion, would you expect
18 someone to have suffered the type of death that Miss Hill
19 suffered, to be able to speak during the strangulation
20 period?

21 A This would depend upon the rapidity and the
22 strength of force applied, you might be able to get some
23 sound, but in this instance, we have fracture of the
24 hyoid, a fracture of the larynx, so the likelihood is that
25 the air was at least partially collapsed, inhibiting speech.

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2 Q So your opinion is, speech would be unlikely?

3 A That is correct.

4 Q And did you see any evidence indicating that
5 at the time of her death, the victim was menstruate?

6 A Yes, sir.

7 Q And what evidence did you see of that?

8 A There was a Tampax, and the endometrium was thin
9 and red, that's the lining of the uterus, the endometrium.

10 Q You referred to some fecal matter being smeared
11 on the victim's buttocks that you observed at the scene.
12 Do you have that in mind, sir?

13 A Yes, sir.

14 Q Did you conduct an internal examination to see
15 if there were any bruising or damage to the anus, itself?

16 A Yes, sir.

17 Q What, if anything, did you find?

18 A I found no evidence of any bruise.

19 MR. CALLE: I didn't hear that. I'm
20 sorry.

21 A There was no evidence of any bruise.

22 BY MR. FITZPATRICK:

23 Q Did you find any evidence of semen or ejaculant?

24 A Not that I could see with the eye.

25 Q Did you have an opinion, Doctor, as to the

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2 object -- or, strike that.

3 Do you have an opinion as to whether or not
4 Miss Hill's anus was penetrated with something?

5 A Yes, sir.

6 Q And do you have an opinion as to what that
7 something was?

8 A No, I can't say specifically what it was, no.

9 Q Can you say that it was or was not a male
10 penis?

11 A It would be very unlikely to be a male penis.

12 Q Would you tell us why you find that, sir?

13 A The object that was inserted into the anus was
14 then wiped, a wipe pattern of fecal material on the lower
15 extremities. And to be able to do that with a male penis,
16 would not fit the anatomy.

17 Q Does the body at death have a tendency to
18 expel fluids and fecal material?

19 A Yes.

20 Q Do you have an opinion, Doctor, considering the
21 following factors: considering that you found no evidence
22 of semen or ejaculant, that you found no evidence of
23 bruising or trauma to the inside of Miss Hill's anus, do
24 you have an opinion as to whether or not this violation was
25 ante-mortem or post-mortem?

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2 A I can't state with any absolute certainty. I
3 think it's more likely to be post-mortem than ante-mortem.

4 THE COURT: Would you explain what those
5 two terms mean?

6 THE WITNESS: Okay. Ante-mortem would
7 be before death; post-mortem would be after
8 death.

9 BY MR. FITZPATRICK:

10 Q Do you have any medical opinion, Dr. Mitchell,
11 as to the significance of this type of violation to a
12 person who's dead?

13 MR. CALLE: Objection. What does that
14 mean, medical opinion or significance?

15 THE COURT: Yes.

16 MR. FITZPATRICK: I'll rephrase it.

17 THE COURT: I'll sustain the objection.

18 MR. FITZPATRICK: I'll rephrase the
19 question.

20 BY MR. FITZPATRICK:

21 Q Have you encountered in your some four-thousand-
22 plus autopsies, instances of anal violation of deceased
23 people, particularly women?

24 A Yes.

25 Q Have you also read on the subject?

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2 A Yes, sir.

3 Q And do you have an opinion as to the significance
4 in conjunction with your autopsy of an anal violation of a
5 woman, such as this?

6 A Yes, sir.

7 MR. CALLE: Objection.

8 THE COURT: Well, he's got an opinion.

9 All right. So the next question is, what is the
10 opinion?

11 BY MR. FITZPATRICK:

12 Q Could you tell us what that opinion is?

13 MR. CALLE: Objection.

14 THE COURT: All right. Wait a second.
15 Could I see the attorneys, please.

16 (Counsel approached the bench. An off-
17 the-record discussion ensued.)

18 THE COURT: As to the last question, the
19 objection is sustained.

20 BY MR. FITZPATRICK:

21 Q Dr. Mitchell, did you make an examination of
22 the stomach contents of Miss Hill?

23 A Yes, sir.

24 Q To educate the jury, would you tell us, is there
25 a time that is consistent with all people as to the

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2 digestive process being completed?

3 A There's a tremendous amount of variety between
4 people as to how long it can take to empty the stomach.
5 The largest number of people, though, eat at regular
6 intervals, and by the time they eat, they've emptied their
7 stomach.

8 So we're talking a number -- a few hours is
9 the usual emptying time.

10 Q From the time of ingestion, until the time it's
11 in the bowels?

12 A That is correct, but it does vary upon your
13 physical condition, whether you've been injured or not,
14 what you're eating, how much you're eating.

15 Q Miss Hill have anything in her stomach?

16 A Yes, sir.

17 Q What was that?

18 A She had about 250 milliliters, which would be
19 about a cup of fluid, and then some chunky material that
20 looked to be congealed grease. In other words, fatty
21 material, that because of the drop in body temperature
22 had turned to solid.

23 Q Were you able to make a determination as to
24 what phase in the digestive process this material was in?

25 A It was not completely absorbed. And I cannot

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2 identify what the substance -- or I cannot, just by eye,
3 identify what the substance is.

4 Q Was there any alcohol in Miss Hill's stomach?

5 A Yes.

6 Q And were you able to get a reading as to the
7 alcohol level?

8 A Yes, sir.

9 Q What was that?

10 A That was .16 grams percentum.

11 Q Now, if Miss Hill were to be alive and have
12 .16 millimeters alcohol in her blood, would that be what
13 you would expect on a Breathalyzer? Do you understand my
14 question, Doctor?

15 A If she had .16 in her blood, you'd expect to
16 get approximately that reading on the Breathalyzer.

17 Q All right. I'm talking about her stomach
18 contents.

19 A Oh, on her stomach contents, no. If it's in
20 the stomach, and not yet in the blood, you're not going to
21 get it in the Breathalyzer.

22 Q All right. Were you able to determine what the
23 alcoholic content of her blood was?

24 A Yes, sir.

25 Q What was that?

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2 A That was .03 percent.

3 Q Now, I want you to understand that this -- I'm
4 asking you to make an assumption here. I want you to assume
5 that the time of death was on any given day, but was
6 sometime between 10:00 and midnight. Would that finding of
7 .03 percent of alcohol in the blood be consistent with her
8 having had a mixed drink or perhaps two mixed drinks at
9 approximately 7 p.m. that evening?

10 MR. CALLE: Objection.

11 THE COURT: No. I'll allow the answer.

12 A It would not be consistent with that.

13 BY MR. FITZPATRICK:

14 Q Would the .03 percent of alcohol in her blood
15 be consistent, assuming that she died sometime on any given
16 day between 10:00 and midnight, with having had one or
17 perhaps two mixed drinks at approximately 7 p.m., and then
18 having had some wine to drink shortly before her death?

19 A Yes, sir.

20 Q Doctor, are you, as a medical examiner, or for
21 that matter, any medical examiner, able to pinpoint with
22 certainty the time of a person's death?

23 A No, sir.

24 Q Would you tell us, and tell the jury, most
25 importantly, what factors affect the determination as to

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2 determining, or an effort to determine the time of a
3 person's death?

4 A Well, there are a variety of things that we use
5 to try to establish when somebody died. We can break them
6 down into factors that are from examining the body and then
7 factors from examining other evidence.

8 If we look at the changes in the body, there
9 are certain averages that we expect under average
10 conditions. But there's still a great deal of variability
11 between people.

12 If we look at other evidence that is often the
13 strongest evidence, for instance, instead: Is the mail
14 in; when does someone normally walk their dog; were
15 people unable to get them by phone; was there a place they
16 were expected to be; had an appointment and were not there;
17 was the newspaper brought in. These are common things
18 that we look for to try to establish whether somebody was
19 alive or dead at a given time.

20 And we have to combine the anatomic factors
21 from examining the body, and the other evidence, to get an
22 impression of when somebody died, but we cannot narrow it
23 to an exact time, except with very rare exceptions.

24 There are things like the Challenger explosion
25 we can place the astronauts' deaths within a few minutes,

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2 from reconstruction of the events. There was an explosion
3 of a propane tank in Buffalo a number of years ago, and at
4 the time of the explosion, somebody was blown against a
5 wall, and at the same time, looked at his watch, and so
6 that tells us when the people in the explosion were killed.
7 But from the examination purely of the body, there
8 is too much variability to give any time in the absolute
9 sense.

10 Q Okay. Doctor, I want to direct your attention
11 to a calendar of March of 1987 and indicate to you that I
12 think I can say with some fair degree of safety, that
13 there's some dispute during the course of this trial as to
14 when it was exactly that Miss Hill died.

15 Taking strictly your observation of her body,
16 is there anything inconsistent with her having died on the
17 night of Saturday, March the 28th, 1987?

18 A No.

19 Q Again, taking strictly your observations,
20 physical observation of her body, is there anything
21 inconsistent with her having died during the evening hours
22 of Friday, March the 27th, 1987?

23 A No.

24 Q Now, you indicated that in your efforts to
25 offer an opinion as to the time of death, you take into

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2 account other factors?

3 A Yes, sir.

4 Q All right. I want you to take into account the
5 following factors in offering an opinion. I want you to
6 take into account the fact that the victim, Miss Hill's
7 cat, was seen outside on Saturday morning; and that was
8 described by a neighbor as being very unusual. I want you
9 to assume that no one saw Miss Hill after Friday, March the
10 27th, 1987 at approximately 7 p.m. to 8 p.m. that evening.
11 I want you to assume further that no one had any physical
12 -- in person or telephone contact with her after Friday,
13 March the 27th, 1987.

14 I want you to assume that she had plans to visit
15 a friend in the Schenectady area and made no contact
16 whatsoever with that friend on either Friday night or
17 Saturday morning. I want you to consider further that
18 that friend attempted numerous times, both on Friday
19 night and Saturday morning, to contact Valerie Hill by
20 phone, and received no answer.

21 I want you to assume further that her car was
22 found in a driveway with no additional mileage on it after
23 Friday evening, the 27th. And, lastly, I want you to
24 consider that her stepmother was gravely ill at St. Joseph's
25 Hospital, and that she had been in almost daily contact

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2 with her father regarding that fact.

3 Assuming all those factors, do you have an
4 opinion as to whether it's more likely or less likely that
5 Miss Hill died on the evening of Friday, March the 27th,
6 1987, as opposed to Saturday, the 28th?

7 MR. CALLE: Judge, I must object.

8 Unspecified ground, unspecified grounds.

9 THE COURT: What -- Doctor, is this
10 going to be a medical opinion, or is it going
11 to be an opinion rendered like anybody else
12 would render an opinion, based on those
13 factors as described by Mr. Fitzpatrick?

14 THE WITNESS: It's going to include
15 the medical aspects of the body, and the
16 investigational aspects that we normally
17 include in our medical evaluation.

18 THE COURT: Your objection is overruled.

19 BY MR. FITZPATRICK:

20 Q You may answer, Doctor.

21 A I would consider that it's more likely that she
22 died Friday night, to possibly very early Saturday morning,
23 would be the possibility that's given there -- I don't know
24 when your overlaps are there with phone calls -- than to
25 have been killed the following day.

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2 Q Do you have an opinion, Dr. Mitchell, within a
3 reasonable degree of medical certainty as to the cause of
4 death of Valerie Hill?

5 A I do.

6 Q Would you tell the jury what that opinion is?

7 A Valerie Hill died as a result of being strangled.

8 Q Thank you very much, Doctor. You can stay right
9 there. Mr. Calle will have some questions.

10 MR. CALLE: Judge, would it be out of
11 the ordinary to request an afternoon adjournment
12 now and give me a couple --

13 THE COURT: Sure. We'll take a fifteen-
14 minute break. Don't talk about it or form any
15 opinions.

16 (Proceedings stand in recess.)

17 (Court, counsel, and the defendant are
18 present. Proceedings resumed at this time.)

19 THE COURT: Okay. Would you get the jury,
20 please.

21 MR. FITZPATRICK: Judge, before resting,
22 I just want to offer some exhibits.

23 THE COURT: Sure.

24 (The jurors entered the courtroom and were
25 seated in the jury box.)

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2 THE COURT: We're all set, Yolanda,
3 thanks.

4 Okay. Put us back in session. The jury
5 is present, counsel, the defendant.

6 Mr. Calle, if -- I think he's rested.
7 We're in cross-examination.

8 MR. CALLE: I had the impression he was
9 going to introduce some exhibits. I beg your
10 pardon.

11
12 CROSS-EXAMINATION BY MR. CALLE:

13 Q Good afternoon, Dr. Mitchell.

14 A Sir.

15 Q Dr. Mitchell, I understand that based upon your
16 position as medical examiner for the county, you performed
17 an autopsy on the deceased in question, correct?

18 A That's correct.

19 Q Okay. Did you make out the reports based upon
20 your -- this autopsy, and publish its findings?

21 A Yes, sir.

22 Q Did you bring them with you here today?

23 A I brought some copies, yes, sir.

24 Q May I see what you have?

25 A Certainly.

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2 MR. CALLE: If you'd allow me, Judge.

3 A Do you wish to see my complete file, or is it
4 just specific reports?

5 Q Well, sir, what is in your complete file?

6 A That would be all paperwork that I have
7 relating to this particular case, including our photographs
8 and some photographs from the police.

9 Q Well, I don't believe that will be necessary.
10 I just want the results of your findings on your medical
11 examination.

12 THE COURT: You want the autopsy report,
13 sir?

14 MR. CALLE: Yes, sir.

15 THE COURT: Hasn't that been furnished
16 to you?

17 MR. FITZPATRICK: Yes, Judge.

18 MR. CALLE: Yes, sir, it has, but
19 specifically what I'm looking for, Dr. Mitchell,
20 is the report estimating the time of death.

21 THE WITNESS: There would be no such thing.

22 BY MR. CALLE:

23 Q Sir, is it not your normal course of business
24 practice to estimate time of death when you perform an
25 autopsy on a suspicious murder?

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2 A It is my practice to make observations that
3 can be used to help interpret the time of death, but we do
4 not create a report trying to establish a time of death.
5 As I've explained previously, there's such a degree of
6 variability that when this question is posed, we must, in
7 fact, discuss the parameters.

8 Q Well, Dr. Mitchell, if I were to tell you that
9 the Syracuse Herald-Journal published March 31st, 1987 --

10 MR. FITZPATRICK: Well, Judge, I would
11 object.

12 THE COURT: Let's hear what the question
13 is.

14 MR. FITZPATRICK: Well, it doesn't do too
15 much good if it's something with absolutely
16 nothing to do with the witness, and the jury
17 hears it. I mean, is it something he said to
18 the Herald-Journal?

19 THE COURT: I don't know, that's why I
20 have to hear the question. And if it's an
21 improper question, this jury is going to be
22 instructed to disregard it -- the question.

23 Go ahead, Mr. Calle, ask your question.

24 MR. CALLE: Yes, sir.

25 BY MR. CALLE:

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2 Q In regards to the Herald-Journal published
3 March 31st, 1987, there is an indication by a writer by
4 the name of John Doherty that, in fact, your report
5 indicated that she died -- that is Valerie Hill -- sometime
6 Saturday or early Sunday morning. Can you explain that?

7 A I do not speak to the newspapers. You can, in
8 fact, talk to the newspaper personnel and they will
9 describe their great frustration in getting information
10 from me concerning case material.

11 Q Yes, sir. But my question was: Could you
12 explain the fact that they're saying the report indicated
13 that she, Valerie Hill, died sometime Saturday or early
14 Sunday morning; could you explain that?

15 A As I had no communication with them and
16 generated no such report, I think you're going to have to
17 turn to the person who wrote that article and ask him that
18 question.

19 Q Sir, is it your testimony today that you never
20 estimated Valerie Hill's time of death to be late Saturday
21 or early Sunday morning, that is the 28th or the 29th of
22 March of 1987?

23 A I have never tied myself to such a time.

24 Q Sir, did you ever state that it could have been
25 the time of death, that is, late Saturday or early Sunday

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2 morning?

3 A It, it could have been, yes.

4 Q Did you ever state that it could have been
5 previously?

6 A Quite possibly.

7 Q Is that -- would that mean you don't recall if
8 you did or you didn't?

9 A That is correct.

10 Q But you might have stated that she died late
11 Saturday or early Sunday?

12 MR. FITZPATRICK: Excuse me, Doctor. I
13 object to the question, "stated" when, to whom,
14 under what circumstances?

15 THE COURT: Well --

16 Q At any time, sir.

17 THE COURT: Stated to anybody?

18 MR. FITZPATRICK: Well, he's stated,
19 Judge, to this jury a few moments ago, that it
20 could -- it was consistent with Saturday, so I
21 would ask if he's trying to impeach him, that
22 he identify the document or the recording that
23 he's referring to.

24 THE COURT: Well, I don't think the
25 doctor denied that, that he stated that.

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2 MR. FITZPATRICK: No. I'm not suggesting
3 that he did, but he's impeaching the witness
4 about a statement. I'd like to have some
5 foundation of the statement, so I can know
6 whether or not Mr. Calle is recording it
7 accurately, and perhaps I could have a chance
8 to rehabilitate the doctor, if necessary.

9 MR. CALLE: Judge, if I may respond
10 briefly. I'm not debating that this particular
11 gentleman stated the possibilities of time of
12 death; I'm just inquiring as to whether he ever
13 stated this particular time of death at any
14 time before.

15 THE COURT: Any other, other type of
16 proceeding, or any other type of report, or to
17 any other person --

18 MR. CALLE: Did he ever give him the
19 opinion that the time of death was either
20 Saturday or Sunday.

21 THE COURT: Okay. Fair question.

22 Have you, sir?

23 THE WITNESS: I have not given the opinion
24 of a specific time of death, because that's not
25 the way I function. I would -- I will have told

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2 people to consider those times as possible.

3 BY MR. CALLE:

4 Q Do you know what an inference is, Dr. Mitchell?

5 A Yes, sir.

6 Q What is it, can you tell me?

7 MR. FITZPATRICK: Objection, your Honor.

8 THE COURT: Sustained.

9 BY MR. CALLE:

10 Q Dr. Mitchell, if I were to tell you that based
11 upon the factors which the District Attorney Fitzpatrick
12 had given you in your determination of Valerie Hill's time
13 of death, if I were to give you different factors,
14 investigatory factors, is there a possibility that that
15 would change the estimated time of death?

16 A Yes, sir:

17 Q So if I were to tell you that, in fact, there
18 was a busy signal at Miss Hill's residence on Saturday, the
19 28th, would that exclude her being killed on the 27th?

20 MR. FITZPATRICK: Judge, I object to the
21 form of the question. Unlike Mr. Calle's
22 example, my examples were based on the testimony
23 and evidence that has been received in this
24 trial. His example, there's absolutely no
25 evidence before this jury of a busy signal on

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2 Saturday morning.

3 THE COURT: But he's asking it with good
4 faith.

5 MR. FITZPATRICK: Well, Judge, a
6 hypothetical has to be based on facts that
7 are in some manner, shape, or form, in evidence
8 before a jury.

9 THE COURT: Or --

10 MR. FITZPATRICK: There's no evidence
11 before this jury, nor is there any evidence --

12 THE COURT: Or factors that the witness
13 is asked to assume.

14 MR. CALLE: Judge, that's my point. I
15 believe this witness was asked to assume -- make
16 certain assumptions.

17 THE COURT: Look it, I'm not, look it --

18 MR. CALLE: Yes, sir.

19 THE COURT: I've had this argument once
20 just a minute ago.

21 MR. CALLE: I'm sorry.

22 THE COURT: You can ask your question,
23 sir, and base it upon that, what you've stated.

24 MR. CALLE: I require a readback at this
25 point, if I may.

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2 THE COURT: Ask his question.

3 (The requested portion of the record was
4 read back by the court reporter.)

5 A As long as no one else was responsible for
6 having the phone busy, yes.

7 BY MR. CALLE:

8 Q Okay. Now, sir, if I were to tell you --, and
9 I'm repeating Mr. Fitzpatrick's assumption -- that Valerie
10 Hill's cat was outside her apartment on Saturday morning,
11 stop for a minute and consider, if you would, do you have
12 any basis to determine whether that cat was not outside
13 her apartment on Friday night?

14 A I personally do not.

15 Q So you don't know when that cat got outside the
16 apartment of Valerie Hill on the weekend in question, do
17 you?

18 A I do not.

19 Q Therefore, sir, would it be fair to say without
20 that information, your analysis is flawed as to the estimated
21 time of death being more likely to be Friday night than
22 Saturday?

23 A I was given a hypothetical with certain
24 assumptions. I have to take those assumptions in that
25 hypothetical.

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2 Q Sir --

3 A If you give me another hypothetical, you will
4 get another answer.

5 Q Dr. Mitchell, I'd like to direct your attention
6 to rigor mortis. Actually, I do not like to direct your
7 attention, but I must.

8 Would you be so kind, instead of me asking the
9 question about rigor mortis, which is probably incorrect,
10 would you again, for me, speak about rigor mortis and what
11 happens after a body dies, in relation to rigor mortis,
12 briefly, if you would?

13 A Rigor mortis is a process that occurs post
14 mortem, in other words, after death, where there is release
15 and use of certain chemicals within the muscles, that cause
16 the same types of chemical activity that normally allow for
17 muscle contraction. But instead of allowing the muscles to
18 contract, the muscles become firm. They cannot extend and
19 they cannot contract. They're -- as they're using this
20 energy up.

21 When the energy has been used up, the muscles
22 can once again become loose and flexible. Rigor mortis
23 will begin typically in the jaw and then may go into the
24 lower extremities or arms. There's some dispute between
25 experience in some authorities as to exactly which is the

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2 most likely. There is a time progression during rigor mortis,
3 but it's quite variable from person to person, and it depends
4 upon a variety of factors, including temperature, because
5 temperature has tremendous influence on the speed of chemical
6 reactions. Do you wish more?

7 Q Oh, no. I didn't know you were done. Now, you
8 mentioned that averages of each body is different, sir. In
9 particular, rigor mortis sets in, I believe you mentioned,
10 and then it goes away, is that correct?

11 A That's correct.

12 Q What is the average time in which rigor mortis
13 sets in and then goes away?

14 A We expect onset, usually, of rigor in the jaw
15 within a few hours, and this is under the assumption of an
16 average body temperature, of an average temperature around the
17 body, an average level of activity. No such thing as seizure
18 or something of this sort, and nor -- none -- nor the other --
19 some unknown factors impacting this.

20 Q Let me get this straight. You're saying that
21 rigor sets in in the jaw within a few hours, or it leaves --

22 A Correct.

23 Q -- or it leaves?

24 A It begins in the jaw within a few hours.

25 Q Okay. When you --

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2 A We --

3 Q I'm sorry.

4 A I don't know what you want from me now.

5 Q When you examined Miss Hill the first time you
6 examined her, was at the scene?

7 A That was at the scene, yes, sir.

8 Q Was there rigor in the jaw?

9 A She had -- she was in full rigor. All or parts
10 of the body were affected by rigor.

11 Q And, again, sir, what's the average time in which
12 rigor sets in and then leaves?

13 A (No verbal response.)

14 Q Average, sir, based upon average conditions,
15 is it not a fact that it's -- well, I'll let you answer the
16 question.

17 A Well, with somebody at least, say, 75 degrees,
18 of average body weight, with no other factors influencing
19 rigor, you may get -- you may start to see rigor disappear
20 at twenty-four hours. It may take forty-eight hours.

21 Q So it would be fair to say that between twenty-
22 four and forty-eight hours that full rigor disappears, on the
23 average?

24 A Well, if you take all the ones that are on
25 average, you're taking all the people who do it much more

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2 rapidly, plus all the ones that do it much more slowly on
3 average, I guess would be something on there.

4 Q So, on average, full rigor disappears between
5 twenty-four and forty-eight hours, is that correct?

6 A Or it's disappearing at least in that time
7 frame.

8 Q However, on March 30th, when you examined the
9 body for the first time, the body was in full rigor,
10 correct?

11 A It had --

12 Q Wasn't that your testimony?

13 A It had rigor affecting all muscle groups, yes.

14 Q Would that be classified as full rigor?

15 A Yes.

16 Q And what time would you -- did you first
17 observe this full rigor?

18 A I would have observed rigor at the scene, and
19 then I observed it --

20 Q What time, sir?

21 A That would be sometime after -- somewhere
22 around 3:30, or a little bit later.

23 Q 3:30 on a Monday?

24 A Mm-hmm.

25 Q So between twenty-four hours on average, would

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2 be 3:30 Sunday, correct?

3 A That is correct.

4 Q The day before?

5 A That is correct.

6 Q And forty-eight hours would be 3:30 on Saturday,
7 correct?

8 A Yes, sir.

9 Q So on average, your findings indicate, or at
10 least one can assume that they indicate that Miss Hill's
11 time of death was approximately 3:30 on Sunday, or 3:30
12 on Saturday, would be the twenty-four or forty-eight hour
13 average time span for full rigor to start disappearing, is
14 that valid?

15 A No. You -- what you're trying to do is
16 disregard the variability to which I have previously
17 testified. You're also disregarding some other findings
18 that are present in the autopsy protocol. She had a fair
19 amount of decomposition change inside -- in fact, her
20 brain had sufficiently decomposed to have small holes in
21 it. The tissues were flabby within.

22 In addition to that, there are other things
23 from the scene. She was laying on a cool floor, which
24 retards all of these processes. And I specifically checked,
25 the basement was cool, so that there's -- that there would

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2 be cooling of the body, all of which would retard these
3 processes. The night temperatures were cool. And the
4 house, itself, was cool, as I believe -- I, I believe it's
5 about sixty-two degrees, if I remember correctly, in the
6 house when that was measured. So that all of these
7 processes would remarkably slow the -- have the potential,
8 at least, for remarkably slowing both the onset and the
9 relaxation of rigor.

10 In strict chemical reactions, we speak about something
11 called the Q-ten. For every ten degree drop in temperature,
12 we expect to have a reduction of the speed of a reaction by
13 about the factor of two.

14 Q Dr. Mitchell, would you say that forty-eight
15 hours is the outside time frame in which full rigor would
16 start to disappear?

17 A It depends upon the conditions of storage of
18 the body.

19 Q Sir, is it possible that Miss Valerie Hill's
20 time of death was Sunday, March 29th?

21 A It's possible.

22 Q Sir, is it possible that Miss Valerie Hill's
23 time of death was Saturday, March 28th?

24 A It's possible.

25 Q Sir, would you say that the estimated time of

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2 death for Miss Hill, being the 27th of March, 1987, was on
3 the outside edge of the possibility? Yes or no, sir.

4 A It -- I don't think that is a yes or no question.

5 Q I'm asking you if you could say that the death
6 of Valerie Hill being attributed to Friday, March 27th, was
7 on the outside edge of the possibility we've just
8 discussed; yes or no?

9 A I don't believe that's a yes or no question. I
10 don't think it can be answered and give a correct impression.
11 In other words, the inference from what the response is,
12 yes or no would be improper.

13 Q Well, is it fair to say that the time of
14 death of Valerie Hill, being attributed to March 27th, 1987,
15 is on the outside edge of a possibility? Would that be fair
16 to say that?

17 A Probably.

18 Q Isn't it a fact that you did say those very
19 words inside the grand jury when you testified in
20 November of '92?

21 A It's possible. I would have to review that.

22 Q You did, sir. I direct your attention,
23 Dr. Mitchell, to the bruise that Miss Hill suffered, I
24 believe, on the right side of her head, and which you
25 observed, I believe, in an internal exam; do you recall?

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2 A Yes, sir.

3 Q I see. Were you able to estimate, Dr. Mitchell,
4 when she received that bruise, based upon your
5 observations at the time in 1987?

6 A I can't give an exact time, but it appeared to
7 be a fresh bruise, something that probably happened within
8 twenty-four hours of the time of the demise.

9 Q Oh, that's what I'm looking at, at the time
10 of demise. I understand now. So you're saying that the
11 bruise occurred either twenty-four hours before Miss Hill
12 was killed, or twenty-four -- twenty-five (sic) hours after
13 she was killed?

14 A No.

15 Q I don't know what you're saying.

16 A It occurred within twenty-four hours of the time
17 of demise, but during life, so it's within the day before she
18 died, or up to the time of demise.

19 Q Oh, I understand now. So this bruise that you
20 observed on the right side of Miss Hill's head, that could
21 have been on her head for twenty-four hours before she died?

22 A It's possible.

23 Q And your testimony was -- is you weren't able to
24 determine if that bruise caused unconsciousness or not, is
25 that correct?

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2 A That is correct.

3 Q Dr. Mitchell, did you examine the body in its
4 entirety, the outside area?

5 A Yes, sir.

6 Q Did you find any defensive wounds?

7 A No.

8 Q What about her fingernails, did you look into
9 her fingernails at all?

10 A I did.

11 Q Did you find any evidence of other blood
12 inside her nails, as to perhaps speculating that she was
13 clawing or scratching in her defense at all?

14 A No.

15 Q What was the condition of those fingernails?

16 A They were unbroken.

17 Q And I just ask for clarification for my own
18 mind, Dr. Mitchell, you said on direct examination by
19 Mr. Fitzpatrick that the amount of alcohol that you found
20 in the victim, either in her stomach or her blood, or both,
21 if she had drunk adult beverage at approximately 7 p.m., the
22 amount of alcohol or findings -- your findings of such
23 were not consistent with her imbibing at 12 p.m. death, is
24 that what I understood on direct examination?

25 A With the hypothetical presented by

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2 Mr. Fitzpatrick, you would not have a .03 blood alcohol
3 present at 10 or thereafter, if she had ingested the
4 one to two drinks at 7.

5 Q So, therefore, it's your expert opinion that
6 Miss Hill had imbibed in alcoholic beverages subsequent to
7 7:00 at night?

8 A Or she imbibed a larger amount orally.

9 Q And I just would like to establish something
10 We're not talking about 7 p.m., we're talking between
11 three and five hours before the demise, is that correct?

12 A Correct.

13 Q Now, Dr. Mitchell, when you arrived at the
14 murder scene on the day in question, March 30th, 1987, that
15 was about 3:30 in the afternoon?

16 A Somewhere about there. I haven't kept an
17 exact record, or if I have it, I don't remember.

18 Q Was the victim on her front or her back side on
19 the ground?

20 A She was lying face down.

21 Q Were you present when the body was turned over?

22 A Yes, sir.

23 Q And was that on your direction?

24 A I would certainly have been part of that
25 decision.

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2 Q When you say you would have -- you believed you
3 were --

4 A Yes, sir.

5 Q -- in on that decision?

6 A Yes, sir.

7 Q You just can't recall?

8 A Well, this is something -- you're asking, was it
9 at my direction. I would work in conjunction with the
10 evidence technicians at the scene, and so it would be a
11 mutual decision. I would not want to move the body before
12 adequate evidence collection had taken place.

13 Q Were you -- were you involved with the investi-
14 gation regarding blood samples or semen samples, if any were
15 taken?

16 A I would retrieve those and they would be
17 transferred to the police.

18 Q Did you retrieve those?

19 A Yes, sir.

20 Q What did you retrieve?

21 A Okay. A vaginal, oral, rectal, and cervical
22 swabs all transferred to the Syracuse Police Department.

23 Q Oh, so you didn't perform any analysis of blood
24 or semen or any samples of -- at the scene recovered?

25 A No. My office would be responsible for the

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2 toxicology.

3 Q Well, do you have the results of the toxicology?

4 A I do.

5 Q And do any of those results link Mr. Rivas at
6 all with the murder?

7 A I don't see how I can confere a blood alcohol
8 or -- from any presence or absence of the drug, link a
9 specific person. Drugs and alcohol don't have any names on
10 them. I can't even tell you whether she drank Stolichnaya
11 or wine.

12 Q My question, sir, has to do with, was there any
13 blood samples taken which perhaps matched up with Mr. Rivas,
14 if you know?

15 A You'd have to ask the Syracuse Police
16 Department.

17 Q That was my question: Do I ask you or not.
18 That's all. Thank you.

19 You mentioned something, livor or livor, sir,
20 which is the settling of blood after death. Was the livor
21 or livor consistent with the position in which you found the
22 body?

23 A Yes, sir.

24 Q And if the body had been on the back side, these
25 results would be inconsistent, based upon your

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2 determination?

3 A I don't quite know for sure what you're after,
4 but if you're trying to say that had she been moved post
5 mortem, would the livor pattern have shown it?

6 Q Yes, sir.

7 A That would -- that would depend on how soon
8 after demise she was moved. If you are moved before livor
9 becomes so fixed, before it leaks out of the blood vessels
10 into the tissues, and then becomes nonmoveable. If it's
11 done while it's still moveable, you cannot tell from the
12 livor pattern, unless you happen to observe the body before
13 the blood has once again moved.

14 If you move a body after the livor has fixed,
15 it then becomes apparent as long as the body is not placed
16 back in a position consistent with the livor pattern.

17 Q Thank you, sir.

18 MR. CALLE: One moment, your Honor.

19 (Proceedings paused.)

20 BY MR. CALLE:

21 Q You mentioned that the victim was wearing, I
22 believe you said she was wearing a nightshirt and a robe
23 over the nightshirt, is that correct?

24 A Yes, sir.

25 Q And nothing else?

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2 A Well, she had the sash around her neck.

3 Q I understand. But I'm talking --

4 A She had some jewelry. I'm talking items of
5 clothing.

6 Q Yes, sir. Did you ever find or observe any --
7 anyone find a pair of panties?

8 A I don't remember them. I can review my
9 photographs and see if I have something there.

10 Q Would you?

11 MR. FITZPATRICK: Dr. Mitchell, if it will
12 save time, your Honor, I would stipulate there
13 were no panties found within the immediate
14 area of the body.

15 MR. CALLE: All right. Thank you.

16 I'll -- I just have a couple brief
17 questions.

18 BY MR. CALLE:

19 Q Did you ever testify in the grand jury that
20 full rigor mortis goes away after a period of one or two
21 days?

22 A Probably.

23 Q Does that mean yes?

24 A Yes.

25 MR. CALLE: One moment, your Honor.

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2 (Proceedings paused.)

3 MR. CALLE: Nothing further. Thank you.

4 THE COURT: Any redirect,

5 Mr. Fitzpatrick?

6 MR. FITZPATRICK: Very briefly.

7
8 REDIRECT EXAMINATION BY MR. FITZPATRICK:

9 Q Have you also testified in front of the grand
10 jury, Doctor, that prior to that particular testimony, you
11 had not reviewed some of your notes and slides in connection
12 with this case?

13 A That is correct.

14 Q And naturally when you prepare for trial, you
15 did review your slides and your notes, is that true?

16 A That is correct.

17 Q And did you see some, as I think you indicated
18 on cross-examination, some decomposition to the brain as you
19 reviewed your slides in preparation for this trial
20 testimony?

21 A Yes, sir.

22 Q Does that assist you in any way estimating the
23 parameters of time of death?

24 A It tends to push the limits further out.

25 Q All right. I want to make sure the jury is clear

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2 on this. What you're saying, if I may paraphrase, is
3 that there are certain parameters within which it's
4 possible that Valerie Hill died?

5 A Yes, sir.

6 Q And that to make a more accurate determination
7 as to the accuracy of when exactly she died, you would take
8 into account factors other than a mere observation of the
9 body?

10 A Yes, sir.

11 Q And, again, you're saying that it's possible
12 that she died on Saturday evening?

13 A Yes, sir.

14 Q And you're also saying that it's possible that
15 she died and was killed on Friday evening?

16 A That is correct.

17 Q Would it have been possible that she had been
18 killed on Thursday evening, March the 26th, during the late
19 evening hours of March the 26th?

20 A It's less likely, but it's possible.

21 Q Okay. And when you make a determination as to
22 average time, and when you testified in front of the grand
23 jury as to rigor disappearing within twenty-four to forty-
24 eight hours, you were speaking of the average, is that
25 correct?

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2 A That is correct.

3 Q And that would include the determination of
4 average being 75 degree temperature?

5 A Average body weight, 75 degree temperature,
6 average circumstances.

7 Q All right. Doctor, I hope we're clear on that.
8 Thank you very much.

9 THE COURT: Anything else?

10 MR. CALLE: Nothing, sir.

11 THE COURT: I have a question -- a couple,
12 if you don't mind. The bruise over the right --
13 I wasn't able to see -- your right eyebrow, I
14 guess?

15 THE WITNESS: Yes, sir. It's over here
16 (Indicating) towards the right temple.

17 THE COURT: You indicated because of the
18 livor, you were unable to really observe it
19 from your exterior examination, correct?

20 THE WITNESS: That is correct.

21 THE COURT: When you did your interior
22 examination of the body, did -- you were able
23 to conduct an interior examination of that area
24 to better understand the extent of that injury?

25 THE WITNESS: Yes, sir.

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2 THE COURT: Okay. With that injury,
3 were there any lacerations around the eyebrow?

4 THE WITNESS: No.

5 THE COURT: All right. The extent of the
6 injury that you observed internally, were you
7 able to tell, would that have raised a bruise,
8 a visible bruise on the outside, if the person
9 remained alive?

10 THE WITNESS: I would expect that if this
11 person remained alive, you'd have a very high
12 probability of bruise, but you can't guarantee
13 it, a visible bruise on the outside.

14 THE COURT: How about swelling of the
15 tissue area around that?

16 THE WITNESS: Again, with, with this size
17 bruise, you usually end up with some swelling.

18 THE COURT: That would have been visible
19 to someone if they had seen it?

20 THE WITNESS: Yes, sir.

21 THE COURT: How rapidly after this injury
22 would have been caused would that have been
23 visible to the naked eye?

24 THE WITNESS: Well, that does vary from
25 person to person.

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1
2 THE COURT: Okay.

3 THE WITNESS: But usually within a few
4 hours.

5 THE COURT: Okay. All right, Doctor,
6 thanks very much for your time, sir. Appreciate
7 it. You may step down.

8 THE WITNESS: Thank you.

9 (Witness excused.)

10 MR. FITZPATRICK: May I, Judge?

11 THE COURT: Are these questions or --

12 MR. FITZPATRICK: No. Judge, I would like
13 to offer People's Exhibit 7, which is the
14 Stephen King library book.

15 THE COURT: Okay. Mr. Calle, the People
16 are offering People's Exhibit 10 (sic), a
17 library book, Stephen King.

18 COURT CLERK: 7, your Honor.

19 THE COURT: ??

20 COURT CLERK: 7.

21 THE COURT: Any objection to that?

22 MR. CALLE: No, sir.

23 THE COURT: That's received.

24 (People's Exhibit Number 7 was then
25 received into evidence.)

MR. FITZPATRICK: Your Honor, I'd offer Exhibit 28. It's a bottle of Bacardi rum recovered from the victim's apartment.

THE COURT: Mr. Calle, Exhibit 28, a plastic bag containing a bottle of rum, Bacardi brand.

MR. CALLE: No objection.

THE COURT: That's received.

(People's Exhibit Number 28 was then received into evidence.)

MR. FITZPATRICK: I'd offer Exhibit 30, your Honor, several pieces of stationery recovered from the victim's apartment by Officer Kimak.

THE COURT: Mr. Calle.

MR. CALLE: No objection.

THE COURT: That's received.

(People's Exhibit Number 30 was then received into evidence.)

MR. FITZPATRICK: I'd offer Exhibit 34, your Honor, a bottle of Blue Nun wine recovered from the refrigerator of the victim, Valerie Hill.

THE COURT: Any objection to that?